

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 12-CR-00264(NGG)
:
-against- : United States Courthouse
: Brooklyn, New York
:
JOHN SQUITIERI, : Friday, January 17, 2014
: 10:30 a.m.
:
Defendant. :
:
- - - - - X

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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1 (In open court.)

2 (Judge NICHOLAS G. GARAUFIS enters the courtroom.)

3 THE COURTROOM DEPUTY: Criminal cause for
4 sentencing. Counsel just step forward, please, and the
5 defendant, too.

6 THE COURT: Good morning, everybody.

7 Appearances, please.

8 MS. HECTOR: Amanda Hector and Jackie Kasulis for
9 the Government.

10 Good morning, Your Honor.

11 MS. KASULIS: Good morning.

12 THE COURT: Good morning.

13 MR. GRIBETZ: Debbie Loewenberg and Kenneth Gribetz
14 for John Squitieri.

15 Good morning.

16 THE COURT: Good morning.

17 Mr. Squitieri, how are you today?

18 THE DEFENDANT: Good.

19 THE COURT: Why are you, you still use a cane?

20 THE DEFENDANT: When I have to walk kind of far
21 distances.

22 THE COURT: Do you want to sit?

23 THE DEFENDANT: No, I'm okay.

24 THE COURT: You're okay, all right.

25 All right. This is a sentencing for John P.

1 Squitieri.

2 Mr. Squitieri, are you satisfied with the assistance
3 that your attorneys have given you thus far in this matter?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Okay.

6 I have the following materials in the sentencing
7 pile and I will just go over what I have.

8 There is a Pre-Sentence Investigation Report that is
9 dated November 1st, 2013.

10 Mr. Gribetz, have you shared that with your client?

11 MR. GRIBETZ: Yes, we have, Your Honor.

12 THE COURT: And have you answered all his questions
13 about it?

14 MR. GRIBETZ: Yes, we have, Your Honor.

15 THE COURT: And are you satisfied that it's
16 accurate?

17 MR. GRIBETZ: Yes, we are.

18 THE COURT: Okay.

19 And the Government?

20 MS. HECTOR: Yes.

21 THE COURT: Are you satisfied with the accuracy of
22 this report?

23 MS. HECTOR: We are, Your Honor.

24 THE COURT: Okay. Very well.

25 And I have a sentencing memorandum from the defense,

1 date of service January 13th, 2014.

2 Has the Government seen that?

3 MS. HECTOR: Yes.

4 THE COURT: And I haven't gotten a response, but I
5 understand that you have no plan to file a written response to
6 this.

7 MS. HECTOR: That's correct, Your Honor.

8 THE COURT: Okay. But you will have something to
9 say?

10 MS. HECTOR: Yes, Your Honor.

11 THE COURT: Okay, that's fine.

12 There is a plea agreement that was entered into on
13 August 19th, 2013, at the time of the plea.

14 The defendant, who is a U.S. citizen, pled guilty to
15 a single count superseding information which charged him with
16 a misdemeanor of embezzlement; correct?

17 MS. HECTOR: Yes.

18 MR. GRIBETZ: That's correct, Your Honor.

19 THE COURT: Okay.

20 So I think that's the file.

21 Is there anything else that I am missing?

22 MR. GRIBETZ: No, Your Honor.

23 MS. HECTOR: No.

24 THE COURT: Okay. All right.

25 Under the Pre-Sentence Report, the total offense

1 level is a four. The defendant is in Criminal History
2 Category I and the range of imprisonment is zero to six
3 months, but there is a question about the --

4 MS. HECTOR: The global resolution points.

5 THE COURT: The global resolution.

6 MS. HECTOR: And that is the defendant is eligible
7 for those points. At this point, everyone has pled pursuant
8 to a global plea agreement.

9 THE COURT: So, I am going to direct that a
10 two-level reduction be included in the Pre-Sentence Report
11 reducing the total offense level from a four to a two.

12 MS. HECTOR: Yes.

13 THE COURT: Correct?

14 MS. HECTOR: Yes.

15 THE COURT: Correct?

16 MR. GRIBETZ: Correct, Your Honor.

17 THE COURT: Now, with a total offense level of two
18 in Criminal History Category I, I don't see many of these, so
19 I always go to the book.

20 The range is zero to six months as I thought.

21 MS. HECTOR: Yes, it stays the same.

22 THE COURT: It stays the same and the defendant is
23 in the lower end of zone A; right?

24 MR. GRIBETZ: Yes, Your Honor.

25 MS. HECTOR: Yes.

1 THE COURT: Okay.

2 So, the Court agrees with the guideline calculation.

3 You agree?

4 MR. GRIBETZ: Yes, Your Honor.

5 THE COURT: And the Government agrees?

6 MS. HECTOR: Yes.

7 THE COURT: So, let's move on to the question of the
8 sentence.

9 The defendant has the right to be sentenced under 18
10 United States Code Section 3553(a) to a sentence that is
11 sufficient but not greater than that necessary to fulfill the
12 purposes of sentencing. There are certain elements or factors
13 that the Court must consider if they are relevant to the
14 particular sentencing.

15 So I am going to ask Mr. Gribetz to speak to the
16 issue of the ultimate sentence.

17 MR. GRIBETZ: Correct, Your Honor. Thank you very
18 much.

19 We've submitted a sentencing memorandum to the Court
20 that has several well thought-out and sincere letters
21 attached, all of which describe our client as a very decent,
22 law-abiding individual.

23 What's missing from the memorandum is a letter from
24 us, from Mrs. Loewenberg and myself, his attorneys, who have
25 spent much of the last 18 months with him, getting to know

1 John, as well as his wife Donna, and the details of this case.

2 John is a deeply dedicated family man and we can
3 tell you that the charges against John resulted from a
4 terrible mistake that he made trying to be and act like
5 someone contrary to his true self. He now understands that
6 and is truly remorseful for his conduct.

7 He is a very hard-working, self made man, who has
8 had many ups and downs in his career. He is creative, he is
9 inventive, as evidenced by a patent he received for a unique
10 kind of grout he developed that is now utilized in hotels
11 throughout the United States.

12 He has been the sole support of his family, his wife
13 of 30 plus years and their two daughters, one of whom recently
14 married, and the other who is studying to become a nurse.

15 Prior to finding himself charged before this Court,
16 John led a truly exemplary life. He has absolutely no
17 criminal history and has always been a respected member of the
18 community.

19 Although trite, it is truthful to say that the
20 conduct that led to the charge and his conviction was
21 aberrational. We have no doubt, Your Honor, that he will
22 never again, never again be faced with criminal charges and we
23 respectfully request that Your Honor consider imposing a
24 conditional discharge without requiring that John become a
25 probationer.

1 In Mrs. Loewenberg's opinion and my own, he does not
2 require any additional supervision at all, and we are certain
3 that he will continue to be the same hard-working, loyal,
4 responsible man, family man, that he has been for his entire
5 life.

6 Thank you, Your Honor.

7 THE COURT: All right. Thank you very much.

8 Does the Government have anything it wishes to state
9 at this time before I sentence the defendant?

10 MS. HECTOR: No, Your Honor.

11 Only that we feel that the PSR accurately lays out
12 the circumstances of the offense and we don't have anything to
13 add to it.

14 THE COURT: All right.

15 Anything else?

16 MS. KASULIS: No, Judge.

17 THE COURT: Okay.

18 So, Mr. Squitieri, is there anything you would like
19 to say before I sentence you?

20 THE DEFENDANT: Yes, sir.

21 Your Honor.

22 THE COURT: He's still young enough.

23 THE DEFENDANT: Nice of you to say so.

24 Please accept my apologies for my conduct. I am
25 very embarrassed and deeply sorry for the trouble and

1 heartache and worry I've put my family through, all of whom
2 have been very supportive of me throughout my entire life, all
3 my ups and downs, and I guarantee you, you will never see me
4 in this court again. Once is enough.

5 Thank you, Your Honor.

6 THE COURT: All right, you're welcome.

7 Well, every once in a while someone appears in this
8 court who has led a very varied but outstanding life,
9 generally speaking, whose career has had its ups and downs,
10 but more ups than downs, and who has added something to
11 society by his actions, by his professional activities. There
12 are points in life where all of us make our mistakes. Most of
13 the mistakes that we make are, fortunately, don't result in
14 criminal litigation, they just result in embarrassment, or
15 they cause us to lose some money, or they cause some personal
16 heartache; but occasionally, Mr. Squitieri, people end up in
17 your situation.

18 You have excellent lawyers. The Government has
19 handled this case with great care and thoughtfulness and
20 balance, and I understand how this could happen to you. But I
21 will say this about you: You know, you've, when I read the
22 PSR I thought of Walt Disney, because as you probably know,
23 Walt Disney declared bankruptcy a number of times, and then he
24 built a mouse into a multi billion dollar empire.

25 I'm not suggesting that the grout will do the same

1 thing for you, but certainly grout has done a lot for you, and
2 I think that this episode, while it's instructive, it's part
3 of your education which continues as it does for all of us as
4 we live our lives, that this is an important part of your
5 education. You can't do things for people that aren't proper.
6 There is no easy way out of some of these situations.
7 Sometimes the word no is a word that you need to use and make
8 it emphatic.

9 And so, I appreciate that you have taken
10 responsibility for what you've done, and I think that enough
11 said about that, and you should move on with your life.

12 I am not so sure I'm crazy about the installation in
13 Times Square, but I am not holding that against you.

14 THE DEFENDANT: Please don't.

15 THE COURT: Because --

16 THE DEFENDANT: My hands were tied.

17 THE COURT: You know, you're the contractor. It
18 wasn't your idea to turn Times Square into a pedestrian mall.

19 So, but I congratulate you on all the good things
20 that you've done, and I think that you will have no trouble
21 getting past this, as long you remember what happened, all
22 right?

23 THE DEFENDANT: You can be sure of that.

24 THE COURT: Okay. Are you ready to be sentenced at
25 this time?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right. I sentence you as follows:

3 Time served, which is just the time of your, I guess
4 arraignment, arrest and arraignment.

5 MS. HECTOR: I think he was released on the same
6 day.

7 THE COURT: You were arrested on the same day. You
8 were in custody for a few hours; right?

9 THE DEFENDANT: Yes.

10 THE COURT: Time served.

11 I am not imposing any supervised release on you. I
12 am going take your lawyer's advice, because I think that you
13 understand and you don't need any further punishment or
14 oversight.

15 There is a \$100 special assessment, which is
16 mandatory. I am going to impose a fine of two thousand
17 dollars that you are to pay immediately.

18 You have the right to appeal your sentence to the
19 U.S. Court of Appeals for the Second Circuit, if you believe
20 the Court has not properly followed the law in sentencing you.

21 Your time to appeal is extremely limited. You
22 should discuss with your attorneys whether an appeal would be
23 worthwhile.

24 I note that you agreed in your plea agreement not to
25 appeal or otherwise challenge the sentence I impose upon you

1 if it is six months or below, and so, by contract, your right
2 to appeal is further circumscribed. Discuss it with your
3 attorneys so that you will have that squared away.

4 Is there anything else? Are there open counts?

5 MS. HECTOR: No, Your Honor -- well, yes, there is.

6 MS. KASULIS: Yes.

7 MS. HECTOR: Because we dismissed the count in the
8 indictment. But I also believe the special assessment is 25
9 because it's a misdemeanor.

10 THE COURT: Well, let's put it this way, we could
11 always use the hundred.

12 MR. GRIBETZ: We're not going to quibble.

13 THE COURT: But it's only 25 because it's a
14 misdemeanor.

15 THE DEFENDANT: Thank you.

16 THE COURT: You got a discount and I'm not adding it
17 to the fine.

18 MR. GRIBETZ: I just ask that the passport be
19 returned.

20 THE COURT: Yes.

21 I order that the defendant's passport be returned to
22 him.

23 MR. GRIBETZ: And the bail be exonerated.

24 THE COURT: And the bail is exonerated forthwith.

25 Anything else?

1 MR. GRIBETZ: That's all, thank you.

2 MS. LOEWENBERG: Many thanks, Your Honor.

3 THE COURT: I must say, it's actually very nice to
4 neat you.

5 THE DEFENDANT: Thank you.

6 THE COURT: But I wish it would be under other
7 circumstances.

8 MR. GRIBETZ: Maybe in Times Square.

9 THE DEFENDANT: See you in Times Square.

10 MS. LOEWENBERG: I'd like to take the opportunity
11 really to thank the Assistant U.S. Attorney's, Amanda, who
12 we've dealt with mostly, but Jackie is wonderful. Just very
13 compassionate, very understanding and true prosecutors in the
14 best possible meaning of the term.

15 MR. GRIBETZ: Absolutely.

16 MS. HECTOR: Thank you.

17 MS. KASULIS: Thank you.

18 THE COURT: I'm sure they appreciate that.

19 THE DEFENDANT: This is all new to me, but I've got
20 to tell you, very impressed about how very organized
21 everything is and I'm a very organizational type of guy.

22 MS. LOEWENBERG: Don't say that.

23 THE DEFENDANT: Just very professional.

24 THE COURT: He didn't mean organization, he meant
25 organized.

1 MR. GRIBETZ: We're going to leave before we ruin
2 it.

3 THE COURT: Good luck to you and I hope you're
4 feeling well.

5 MR. GRIBETZ: The fine is paid in the clerk's
6 office downstairs?

7 | THE COURT: Yes.

8 MS. LOEWENBERG: Thank you so much.

9 MS. KASULIS: If there's any paperwork you need to
10 us sign to release any property with respect to the bond, you
11 can send it to me or Amanda.

12 THE COURT: The fine is two thousand dollars.

13 ALL: Thank you.

14 (Matter concluded.)

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